

AMENDED IN SENATE JUNE 9, 2010
AMENDED IN ASSEMBLY MAY 18, 2009
AMENDED IN ASSEMBLY MAY 5, 2009
AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 853

Introduced by Assembly Member Arambula

February 26, 2009

An act to *amend Section 56425 of, and to add Sections 56375.6 and 56375.7 to 56435 to*, the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 853, as amended, Arambula. Local government: organization.

The

(1) *The Cortese-Knox-Hertzberg Act of 2000 governs the organization and reorganization of local governmental entities, including, among other things, the annexation of island territories to a city or county.*

This bill would provide procedures for annexing unincorporated fringe communities and unincorporated island communities, as defined, to a city under specified circumstances, ~~including provisions for a revenue neutrality agreement between the affected local government entities.~~

(2) *The Cortese-Knox-Hertzberg Act of 2000 requires a local agency formation commission to develop and determine the sphere of influence of each local governmental agency within the county and to enact policies designed to promote the logical and orderly development of areas within the sphere, and requires the commission, in determining*

the sphere of influence of each local agency, to consider and prepare a written statement of its determination with respect to the present and planned land uses in the area, the present and probable need for public facilities and services in the area, the present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide, and the existence of any social or economic communities of interest in the area, as specified.

This bill would also require the commission to adopt a comprehensive plan to address infrastructure deficiencies for unincorporated fringe communities, unincorporated island communities, and unincorporated legacy communities, as defined, and would require the commission to prepare a written statement of its determinations with respect to the existence of that comprehensive plan with regard to the commission's determination of spheres of influence, thereby imposing a state-mandated local program. The bill would also prohibit a commission from approving a change to a sphere of influence unless all relevant agencies are in compliance with the comprehensive plan.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 56375.6 is added to the Government
- 2 Code, to read:
- 3 56375.6. (a) As used in this section, the following terms have
- 4 the following meanings:
- 5 (1) "Unincorporated fringe community" means any inhabited
- 6 unincorporated territory that is within *1.5 miles of a city or within*
- 7 *or adjacent to a city's sphere of influence.*
- 8 (2) "Unincorporated island community" means any inhabited
- 9 unincorporated territory that is surrounded or substantially
- 10 surrounded by one or more cities or by one or more cities and a
- 11 county boundary or the Pacific Ocean.

(3) “Disadvantaged community” means a community with an annual median household income that is less than 80 percent of the statewide annual median household income. Income evidence may be provided by a community household survey.

(b) The board of supervisors shall petition the commission in the board’s county to approve the annexation to a city of any ~~island~~ *unincorporated island community* or *unincorporated fringe community* after notice and hearing if all of the following conditions exist:

(1) Twenty-five percent of the registered voters or landowners in the *unincorporated fringe community* or *unincorporated island community* file a petition with the board to initiate an annexation of that community to a municipality.

(2) The territory contained in the annexation petition constitutes an ~~island~~ *unincorporated island community* or constitutes an *unincorporated fringe community* that ~~lacks~~ *has infrastructure deficiencies, such as lacking wastewater, drinking water services, storm drainage, paved streets, sidewalks, or streetlights, or there exists a serious infrastructure-related health hazard.*

(3) The territory that is the subject of the annexation petition constitutes a disadvantaged community, ~~as defined by Section 79505.5 of the Water Code.~~ Income evidence may be provided by a community household survey.

~~(e) Notwithstanding any other provision of law, within 180 days of a petition being mailed pursuant to subdivision (b), a separate property tax transfer agreement shall be agreed to between the annexing city and the county pursuant to Section 99 of the Revenue and Taxation Code. If an agreement is not made within 180 days, a property tax transfer agreement shall be determined pursuant to Section 56375.7. That agreement shall not affect any existing master tax sharing agreement between the city and county.~~

~~(d) The commission shall approve, after notice and hearing, the annexation, and as needed, the change of organization or reorganization of a city, subject to subdivision (a) of Section 57080, unless the commission finds, based on the preponderance of evidence, that the change in reorganization will not result in a net benefit to the public health of the affected communities. The financial impact of the annexation shall not be a factor in this determination.~~

1 (e) ~~Subject to the commission's approval of an annexation under~~
2 ~~this subdivision, no affected special district shall have the authority~~
3 ~~to terminate the annexation.~~

4 (f) ~~Subject to the commission's approval of an annexation under~~
5 ~~this subdivision, the city shall amend its general plan to ensure~~
6 ~~that the annexation conforms with the municipality's general plan.~~

7 SEC. 2. ~~Section 56375.7 is added to the Government Code, to~~
8 ~~read:~~

9 ~~56375.7. (a) The commission shall determine a revenue~~
10 ~~neutrality agreement, including the amount of property tax revenue~~
11 ~~to be exchanged by the affected local agency pursuant to this~~
12 ~~section. The commission shall notify the county auditor of the~~
13 ~~proposal and the services that the annexing city will assume within~~
14 ~~the territory to be annexed and identify for the auditor the existing~~
15 ~~service providers within the area subject to the proposal.~~

16 (b) ~~If the proposal would not transfer all of an affected agency's~~
17 ~~service responsibilities to the proposed city, the commission and~~
18 ~~the county auditor shall do all of the following:~~

19 (1) ~~The county auditor shall determine the proportion that the~~
20 ~~amount of property tax revenue derived by each affected local~~
21 ~~agency pursuant to subdivision (b) of Section 93 of the Revenue~~
22 ~~and Taxation Code bears to the total amount of revenue from all~~
23 ~~sources, available for general purposes, received by each affected~~
24 ~~local agency in the prior fiscal year. For purposes of making this~~
25 ~~determination and the determination required by paragraph (3),~~
26 ~~"total amount of revenue from all sources available for general~~
27 ~~purposes" means the total amount of revenue which an affected~~
28 ~~local agency may use on a discretionary basis for any purpose and~~
29 ~~does not include any of the following:~~

30 (A) ~~Revenue which, by statute, is required to be used for a~~
31 ~~specific purpose.~~

32 (B) ~~Revenue from fees, charges, or assessments which are levied~~
33 ~~to specifically offset the cost of particular services and do not~~
34 ~~exceed the cost reasonably borne in providing these services.~~

35 (C) ~~Revenue received from the federal government which is~~
36 ~~required to be used for a specific purpose.~~

37 (2) ~~The commission shall determine, based on information~~
38 ~~submitted by each affected local agency, an amount equal to the~~
39 ~~total net cost to each affected local agency during the prior fiscal~~
40 ~~year of providing those services that the annexing city will assume~~

1 within the area subject to the proposal, including the cost of
2 connecting residents to wastewater or drinking water services.

3 For purposes of this paragraph, “total net cost” means the total
4 direct and indirect costs that were funded by general purpose
5 revenues of the affected local agency and excludes any portion of
6 the total cost that was funded by any revenues of that agency that
7 are specified in subparagraphs (A), (B), and (C) of paragraph (1):

8 (3) The commission shall multiply the amount determined
9 pursuant to paragraph (2) for each affected local agency by the
10 corresponding proportion determined pursuant to paragraph (1) to
11 derive the amount of property tax revenue used to provide services
12 by each affected local agency during the prior fiscal year within
13 the area subject to the proposal. The county auditor shall adjust
14 the amount described in the previous sentence by the annual tax
15 increment according to the procedures set forth in Chapter 6
16 (commencing with Section 95) of Part 0.5 of Division 1 of the
17 Revenue and Taxation Code, to the fiscal year in which the new
18 city or district receives its initial allocation of property taxes.

19 (4) For purposes of this subdivision, in any county in which,
20 prior to the adoption of Article XIII A of the California
21 Constitution, and continuing thereafter, a separate fund or funds
22 were established consisting of revenues derived from the
23 unincorporated area of the county and from which fund or funds
24 services rendered in the unincorporated area have been paid, the
25 amount of property tax revenues derived pursuant to paragraph
26 (3), may, at the discretion of the commission, be transferred to the
27 annexing city over a period not to exceed 12 fiscal years following
28 the annexation. In determining whether the transfer of the amount
29 of property tax revenues determined pursuant to paragraph (3)
30 shall occur entirely within the fiscal year immediately following
31 the annexation or shall be phased in over a period not to exceed
32 12 full fiscal years following the annexation, the commission shall
33 consider each of the following:

34 (A) The total amount of revenue from all sources available to
35 the annexing city.

36 (B) The fiscal impact of the proposed transfer on the transferring
37 agency.

38 (C) Any other relevant facts which interested parties to the
39 exchange may present to the commission in written form.

1 The decision of the commission shall be supported by written
2 findings setting forth the basis for its decision.

3 ~~(e) If the proposal would transfer all of an affected agency's~~
4 ~~service responsibilities to the annexing city, the commission shall~~
5 ~~request the auditor to determine the property tax revenue generated~~
6 ~~for the affected service providers by tax rate area, or portion~~
7 ~~thereof, and transmit that information to the commission.~~

8 ~~(d) The executive officer shall notify the auditor of the amount~~
9 ~~determined pursuant to paragraph (3) of subdivision (b) or~~
10 ~~subdivision (c), as the case may be, and, where applicable, the~~
11 ~~period of time within which and the procedure by which the~~
12 ~~transfer of property tax revenues will be effected pursuant to~~
13 ~~paragraph (4) of subdivision (b), at the time the executive officer~~
14 ~~records a certificate of completion pursuant to Section 57203 for~~
15 ~~any proposal described in subdivision (a), and the auditor shall~~
16 ~~transfer that amount to the new jurisdiction.~~

17 ~~(e) An action brought by a city or district to contest any~~
18 ~~determinations of the county auditor or the commission with regard~~
19 ~~to the amount of property tax revenue to be exchanged by the~~
20 ~~affected local agency pursuant to this section shall be commenced~~
21 ~~within three years of the effective date of the annexation.~~

22 *SEC. 2. Section 56425 of the Government Code is amended to*
23 *read:*

24 56425. (a) In order to carry out its purposes and responsibilities
25 for planning and shaping the logical and orderly development and
26 coordination of local governmental agencies to advantageously
27 provide for the present and future needs of the county and its
28 communities, the commission shall develop and determine the
29 sphere of influence of each local governmental agency within the
30 county and enact policies designed to promote the logical and
31 orderly development of areas within the sphere.

32 (b) Prior to a city submitting an application to the commission
33 to update its sphere of influence, representatives from the city and
34 representatives from the county shall meet to discuss the proposed
35 new boundaries of the sphere and explore methods to reach
36 agreement on development standards and planning and zoning
37 requirements within the sphere to ensure that development within
38 the sphere occurs in a manner that reflects the concerns of the
39 affected city and is accomplished in a manner that promotes the
40 logical and orderly development of areas within the sphere. If an

1 agreement is reached between the city and county, the city shall
2 forward the agreement in writing to the commission, along with
3 the application to update the sphere of influence. The commission
4 shall consider and adopt a sphere of influence for the city consistent
5 with the policies adopted by the commission pursuant to this
6 section, and the commission shall give great weight to the
7 agreement to the extent that it is consistent with commission
8 policies in its final determination of the city sphere.

9 (c) If the commission's final determination is consistent with
10 the agreement reached between the city and county pursuant to
11 subdivision (b), the agreement shall be adopted by both the city
12 and county after a noticed public hearing. Once the agreement has
13 been adopted by the affected local agencies and their respective
14 general plans reflect that agreement, then any development
15 approved by the county within the sphere shall be consistent with
16 the terms of that agreement.

17 (d) If no agreement is reached pursuant to subdivision (b), the
18 application may be submitted to the commission and the
19 commission shall consider a sphere of influence for the city
20 consistent with the policies adopted by the commission pursuant
21 to this section.

22 (e) In determining the sphere of influence of each local agency,
23 the commission shall consider and prepare a written statement of
24 its determinations with respect to each of the following:

25 (1) The present and planned land uses in the area, including
26 agricultural and open-space lands.

27 (2) The present and probable need for public facilities and
28 services in the area.

29 (3) The present capacity of public facilities and adequacy of
30 public services that the agency provides or is authorized to provide.

31 (4) The existence of any social or economic communities of
32 interest in the area if the commission determines that they are
33 relevant to the agency.

34 (5) *The existence of a comprehensive plan adopted pursuant to*
35 *Section 56435 and local agency compliance with that plan, if*
36 *applicable.*

37 (f) Upon determination of a sphere of influence, the commission
38 shall adopt that sphere.

(g) On or before January 1, 2008, and every five years thereafter, the commission shall, ~~as necessary~~, review and update, *as necessary*, each sphere of influence.

(h) The commission may recommend governmental reorganizations to particular agencies in the county, using the spheres of influence as the basis for those recommendations. Those recommendations shall be made available, upon request, to other agencies or to the public. The commission shall make all reasonable efforts to ensure wide public dissemination of the recommendations.

(i) When adopting, amending, or updating a sphere of influence for a special district, the commission shall do all of the following:

(1) Require existing districts to file written statements with the commission specifying the functions or classes of services provided by those districts.

(2) Establish the nature, location, and extent of any functions or classes of services provided by existing districts.

(3) *The commission shall not approve any change to a sphere of influence unless all relevant local agencies are in compliance with Section 56435.*

SEC. 3. Section 56435 is added to the Government Code, to read:

56435. (a) As used in this section, the following terms have the following meanings:

(1) "Unincorporated fringe community" means any inhabited unincorporated territory that meets all of the following conditions:

(A) The community is within 1.5 miles of a city or within or adjacent to a city's sphere of influence.

(B) The community has infrastructure deficiencies, such as lacking wastewater, drinking water services, storm drainage, paved streets, or there exists a serious infrastructure-related health hazard.

(C) The community constitutes a disadvantaged community.

(2) "Disadvantaged community" means a community with an annual median household income that is less than 80 percent of the statewide annual median household income. Income evidence may be provided by a community household survey.

(3) "Unincorporated island community" means any inhabited unincorporated territory that meets all of the following conditions:

1 (A) *The community is surrounded or substantially surrounded*
2 *by one or more cities or by one or more cities and a county*
3 *boundary or the Pacific Ocean.*

4 (B) *The community has infrastructure deficiencies, such as*
5 *lacking wastewater, drinking water services, storm drainage, paved*
6 *streets, or there exists a serious infrastructure-related health*
7 *hazard.*

8 (C) *The community constitutes a disadvantaged community.*

9 (4) *“Unincorporated legacy community” means any inhabited*
10 *unincorporated territory that meets all of the following conditions:*

11 (A) *The community is more than 1.5 miles from a city and not*
12 *adjacent to a city’s sphere of influence.*

13 (B) *The community has infrastructure deficiencies, such as*
14 *lacking wastewater, drinking water services, storm drainage, paved*
15 *streets, or there exists a serious infrastructure-related health*
16 *hazard.*

17 (C) *The community constitutes a disadvantaged community.*

18 (b) *The commission shall adopt a comprehensive plan to address*
19 *infrastructure deficiencies for unincorporated fringe communities,*
20 *unincorporated island communities, and unincorporated legacy*
21 *communities.*

22 (1) *The comprehensive plan must include a feasibility analysis*
23 *that includes at least one of the following:*

24 (A) *Extension of municipal services.*

25 (B) *Annexation.*

26 (C) *Consolidation of agencies.*

27 (D) *Other actions within the commission’s authority.*

28 (2) *The comprehensive plan shall include potential federal, state*
29 *or local funding sources, including, but not limited to, community*
30 *development block grants, redevelopment funds, the Clean Water*
31 *State Revolving Fund, and the Safe Drinking Water Revolving*
32 *Fund. For any single infrastructure category, the plan shall not*
33 *include an assessment for capital costs levied on residents of a*
34 *disadvantaged community that exceeds 1.5 percent of the median*
35 *household income in that community.*

36 (3) *The comprehensive plan shall include a timeline for each*
37 *action.*

38 (4) *The relevant local agencies shall be consulted by the*
39 *commission and may provide guidance or comments prior to the*
40 *adoption of the plan.*

1 (5) *The comprehensive plan may be developed using the process*
2 *described in subdivisions (b) and (c) of Section 56425.*

3 (c) *The comprehensive plan shall be adopted concurrent with*
4 *the commission's review pursuant to subdivision (g) of Section*
5 *56425, or prior to acting on any request pursuant to Section 56428,*
6 *whichever occurs first.*

7 (d) *All local agencies identified in a comprehensive plan shall*
8 *comply with the adopted actions and timelines of the commission.*
9 *A local agency may present a challenge to the comprehensive plan,*
10 *as it relates to that local agency, to the commission. The*
11 *commission shall adopt a written response to that challenge within*
12 *90 days.*

13 (e) *The commission shall not approve an annexation to a city*
14 *if that city is not in compliance with a comprehensive plan action*
15 *related to a community that lacks wastewater or drinking water*
16 *services constituting a serious public health hazard.*

17 SEC. 4. *No reimbursement is required by this act pursuant to*
18 *Section 6 of Article XIII B of the California Constitution because*
19 *a local agency or school district has the authority to levy service*
20 *charges, fees, or assessments sufficient to pay for the program or*
21 *level of service mandated by this act, within the meaning of Section*
22 *17556 of the Government Code.*